



Agenda Date: 04/22/03

Agenda Item: III I.

## **STATE OF NEW JERSEY**

### **Board of Public Utilities**

**Two Gateway Center**

**Newark, NJ 07102**

**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

### CABLE TELEVISION

IN THE MATTER OF CABLEVISION OF NEW )  
NEW JERSEY (BAYONNE AND BERGEN )  
SYSTEMS), CABLEVISION OF ELIZABETH; )  
CABLEVISION OF HAMILTON; CABLEVISION )  
OF HUDSON; CABLEVISION OF MONMOUTH )  
(FREEHOLD, LAKEWOOD, JACKSON, )  
SEASIDE, MILLSTONE, WALL/ASBURY )  
SYSTEMS); CABLEVISION OF MORRIS; )  
CABLEVISION OF NEWARK; CABLEVISION )  
OF OAKLAND; CABLEVISION OF PATERSON; )  
CABLEVISION OF RAMAPO; CABLEVISION )  
OF RARITAN VALLEY; CABLEVISION OF )  
ROCKLAND AND CABLEVISION OF )  
WARWICK (WEST MILFORD AND )  
MONTAGUE SYSTEMS) REQUEST FOR )  
WAIVER, NUNC PRO TUNC, OF NOTICE FOR )  
ALTERATION IN CHANNEL ALLOCATION )

### DECISION AND ORDER

DOCKET NO. CO03030215

(SEE ATTACHED SERVICE LIST)

BY THE BOARD:

On March 26, 2003, Cablevision of New Jersey (Bayonne and Bergen Systems), Cablevision of Elizabeth; Cablevision of Hamilton; Cablevision of Hudson; Cablevision of Monmouth (Freehold, Lakewood, Jackson, Seaside, Millstone, Wall/Asbury Systems); Cablevision of Morris; Cablevision of Newark; Cablevision of Oakland; Cablevision of Paterson; Cablevision of Ramapo; Cablevision of Raritan Valley; Cablevision of Rockland and Cablevision of Warwick (West Milford and Montague systems) (Petitioners or Cablevision), filed a letter, in lieu of Petition, with the Board, requesting a waiver of the time requirements for providing notice of alterations of channel allocations under N.J.A.C. 14:18-3.17, stemming from the addition of the Yankees Entertainment and Sports (YES) network to their premium channel lineups.

The programming change requiring channel allocation alterations was caused by a one-year agreement reached with the YankeeNets organization, pursuant to which the above

referenced Cablevision systems will add the YES network to their premium channel lineups. YES is a 24-hour regional sports network that will show approximately 130 Yankees games this season, in addition to other sports programming. Various channels changes were necessary to accommodate YES throughout the Cablevision systems.

The final agreement with respect to carriage of YES was not reached until March 31, 2003, the same day that the network launched on the Cablevision systems and also the opening day of the Yankee's 2003 Baseball Season, thereby negating the timely compliance required to provide subscribers and municipalities at least thirty (30) days notice prior to YES Network' launch date.

N.J.A.C. 14:18-3.17(a) and (b) states that each cable TV company shall notify the Office of Cable Television, its subscribers and municipalities of an alteration in channel allocation prior to the effective date for new additions which do not require deletions or cutbacks in other services. For all other changes the operator must provide notice at least thirty (30) days prior to the effective date. Thus, this thirty (30) day requirement does not apply to the Cablevision of Ramapo and Cablevision of Rockland systems, which each added YES without deletions or cutbacks. In these systems, the YES notices were promulgated prior to the March 31, 2003 effective date and thus the Ramapo and Rockland systems satisfy the requirements of N.J.A.C. 14:18-3.17(b).

In the other systems, however, deletions, cutbacks and/or rate changes were necessary, and therefore these systems must seek a waiver. N.J.A.C. 14:18-3.17(c)(2) allows for relaxation of the thirty (30) day notice requirement when timely compliance is impossible due to the unforeseeable actions of third parties beyond the cable television operator's control, providing that the cable provider seeks "to provide the required notice at the earliest possible date.". Accordingly, Petitioners seek a waiver, nunc pro tunc, of the thirty (30) day notice of an alteration in channel allocation, since they provided less than thirty (30) days notice prior to the effective date of the alterations.

According to Cablevision, subscribers were notified of the addition of the YES network on March 28 and then again starting March 31, 2003, by way of a panel on the program listings service, which is on channel fourteen (14) in most systems. Since notice was only on screen, sample subscriber notices are not available. Municipal officials were notified by way of letter on April 1, 2003 and a sample of this letter was submitted to the OCTV on April 9, 2003.

Having reviewed this matter, the Board HEREBY FINDS that the systems acted to provide the required notice at the earliest possible date, that the timely compliance was impossible due to the nature and timing of the negotiations, that the launch of the service without the requisite notice was taken to ensure that a substantial benefit to subscribers was not irretrievably lost, and that the requested waiver, nunc pro tunc, of the notice period is appropriate and necessary for immediate compliance with State regulations. Therefore, the Board HEREBY APPROVES, nunc pro tunc, Petitioners' request for waiver of the notification requirements under N.J.A.C. 14:18-3.17.

DATED: April 24, 2003

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

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JEANNE M. FOX  
PRESIDENT

(signed)

\_\_\_\_\_  
FREDERICK F. BUTLER  
COMMISSIONER

(signed)

\_\_\_\_\_  
CAROL J. MURPHY  
COMMISSIONER

(signed)

\_\_\_\_\_  
CONNIE O. HUGHES  
COMMISSIONER

(signed)

\_\_\_\_\_  
JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY

**IN THE MATTER OF  
THE APPLICATION OF  
CABLEVISION OF NEW JERSEY (BAYONNE AND BERGEN SYSTEMS), CABLEVISION OF  
ELIZABETH; CABLEVISION OF HAMILTON; CABLEVISION OF HUDSON; CABLEVISION  
OF CONMOUTH (FREEHOLD, LAKEWOOD, JACKSON, SEASIDE, MILLSTONE,  
WALL/ASBURY SYSTEMS); CABLEVISION OF MORRIS; CABLEVISION OF NEWARK;  
CABLEVISION OF OAKLAND; CABLEVISION OF PATERSON; CABLEVISION OF  
RAMAPO; CABLEVISION OF RARITAN VALLEY; CABLEVISION OF ROCKLAND AND  
CABLEVISION OF WARWICK REQUEST FOR WAIVER, NUNC PRO TUNC, OF NOTICE  
FOR ALTERATION IN CHANNEL ALLOCATION  
DOCKET NO. CO03030215**

**Celeste M. Fasone, Director**  
**Charles A. Russell, Deputy Director**  
**William Furlong, Chief**  
**Nueva Elma, Chief**  
**Jeffrey Kaufman**  
Office of Cable Television  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

**Kenneth Sheehan, DAG**  
Department of Law & Safety  
Division of Law  
124 Halsey Street  
Newark, New Jersey 07102

**Carol Entenza-Artale, Esq.**  
Legal Specialist  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

**Elizabeth A. Murray**  
Director of Regulatory Affairs  
Cablevision  
683 Route 10 East  
Randolph, New Jersey 07869

**Seema M. Singh, Esq.**  
Director  
Ratepayer Advocate  
Division of Ratepayer Advocate  
31 Clinton Street  
Newark, NJ 07102

